

# **EXHIBIT 1**

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF VIRGINIA  
ROANOKE DIVISION

BRANDON LESTER, )  
v. Plaintiff, ) ) Civil action No. 7:15-cv-00665  
SMC TRANSPORT, LLC., )  
ISRAEL MARTINEZ, JR., )  
and )  
SALINAS EXPRESS, LLC, )  
Defendants. )

**DECLARATION OF SERGIO CUELLAR**  
**PURSUANT TO 28 U.S.C. § 1746**

I, Sergio Cuellar, of 805 America Street, Weslaco, Texas, 78596 declare as follows:

1. I submit this declaration in opposition to Plaintiff's Motion for Partial Summary Judgment.
2. I make these statements based on my personal knowledge and/or upon a review of the records kept in the normal course of business at SMC Transport, LLC.
3. I am the sole member and owner of SMC Transport, LLC.
4. I am the manager of SMC Transport, LLC and my duties include dispatching and supervising drivers while under dispatch for SMC Transport, LLC.
5. On or about July 2015, SMC Transport, LLC purchased the 2003 Freightliner tractor, VIN 1FUJA6CG63LL12106 which was involved in the accident which the subject matter of this lawsuit.

6. Sometime in October 2015, Roy Salinas asked to use a tractor with the tow hitch on it to pick up his tractor which had broken down.
7. I told him that he could use the 2003 Freightliner tractor with the tow hitch.
8. Neither I nor SMC Transport expected anything in return for the use of the SMC Transport, LLC tractor.
9. Roy Salinas' use of the SMC Transport, LLC tractor would not and did not benefit me or SMC Transport, LLC.
10. I was not allowing the use of the SMC Transport, LLC tractor to perform any "testing" of the vehicle. Any such allegation is baseless and false.
11. I had not met Israel Martinez, Jr. before the accident of October 26, 2015.
12. Neither I nor SMC Transport, LLC have employed or used Israel Martinez, Jr. for any tasks or jobs or loads.
13. Israel Martinez, Jr. was not and is not an employee, agent or independent contractor/driver for SMC Transport, LLC.
14. Neither I nor anyone on behalf of SMC Transport, LLC dispatched, directed or controlled or supervised any activities of Israel Martinez, Jr., Roy Salinas, Eduardo Lozano and/or Art Gutierrez during the trip from Texas to Virginia that included the accident of October 26, 2015 which is the subject matter of this lawsuit.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on July 8, 2016



Sergio Cuellar